IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL APPLICATION NO.1665 OF 2006
IN
WRIT PETITION NO.4479 OF 2001

R.B. Dalvi & Ors. .... Applicants
Vs.
S.S. Shetty .... Respondent

Shri Suresh Sabrad for the Applicants.
Ms Kololgi h/f Shri T.S. Ingale for the Respondent.

CORAM: R.M.S. KHANDEPARKAR, J.
DATED: DECEMBER 08, 2006

P.C:

Heard. By the present application, the applicants are praying for appointment of Commissioner to ascertain whether the construction carried out by the respondent No.1 in the suit premises is in accordance with the order dated 13-9-2005.

It is well-settled law that the parties are not entitled to get the appointment of Commissioner to collect evidence in support of the parties' contention. In case it is the case of the applicants that the respondent No.1 has carried out the construction in contravention of the order dated 21-9-2001, nothing prevents the applicants from adopting the lawful means to collect evidence in that regard but they cannot seek the assistance of the Court by way of appointment of Commissioner to collect the evidence in that regard. With this view in the matter, the application is rejected.

(R.M.S. Khandeparkar, J.)